



GUIDANCE ON THE USE OF EXCLUSION FROM SCHOOL

*ROLE AND RESPONSIBILITIES OF THE GOVERNING BODY
IN RELATION TO THE EXCLUSION OF PUPILS*

Effective from 1 September 2022 until
further notice



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for children**

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Introduction

The advice and guidance contained in this booklet supersedes all previous documents issued by both Kingston and Richmond local authorities and Achieving for Children (AfC).

These procedures apply to all maintained schools, academies, and free schools, and all pupils in them, including any who are below or above compulsory school age.

The guidance document also incorporates local practice and procedures across Kingston and Richmond schools.

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Further information

This advice should not be read in isolation. It is important for school personnel to consider the following guidance: [Behaviour in schools Guidance](#); [Keeping Children Safe in Education](#); [Mental health and behaviour in school](#)

Legal context

The principal legislation to which this exclusion guidance relates is:

- the Education Act 2002, as amended by the Education Act 2011;
- the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
- the Education and Inspections Act 2006;
- the Education Act 1996; and
- the Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007, as amended by the Education (Provision of Full-Time Education for Excluded Pupils) (England) (Amendment) Regulations 2014

Terminology

The term **must** refers to what head teachers/governing boards/academy trusts/local authorities/parents and others are required to do by law and must have regard to when carrying out their duties.

The term **should** refers to recommendations for good practice and should be followed unless there is good reason not to.

Use of the term **suspend** in this guidance is a reference to what is described in the legislation as an exclusion for a fixed period.

Governing Body role

The governing body of a school must, by law, review certain exclusions and must consider any representations about an exclusion made by the parents of an excluded pupil.

Where the governing body is legally required to consider reinstating an excluded pupil they must consider the interest and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school.

The governing body may delegate their functions with respect to the consideration of an exclusion decision to a designated sub-committee consisting of at least three governors. The quorum for a Discipline Committee is three members.

What has changed from the 2017 Guidance?

- When head teachers suspend or permanently exclude a pupil they must, without delay, notify parents. Legislative changes mean that if a pupil has a social worker, or if a pupil is looked-after, the head teacher must now, also without delay after their decision, notify the social worker and/or Head of the Virtual School, as applicable.
- When head teachers suspend or permanently exclude a pupil, they must also notify the local authority, without delay. Legislative changes mean that this must be done regardless of the length of a suspension.
- Head teachers may cancel an exclusion that has not been reviewed by the governing board. This practice is sometimes known as withdrawing/rescinding a suspension or permanent exclusion. If this occurs, parents, the governing board and the local authority should be notified, and if relevant, the social worker and VSH.
- Clarified guidance on the use of off-site direction as a short-term measure that can be used as part of a school's behaviour management strategy.
- Revised guidance on managed moves, what they are and how they should be used.
- Clarified guidance on the use of reintegration meetings following a suspension.
- Guidance for governing boards to ensure that they review data to consider the level of pupil moves and the characteristics of pupils who have been permanently excluded to ensure the sanction is only used when necessary as a last resort.
- The full DfE Guidance document can be found here: [DfE exclusion guidance 2022](#)

Informing the governing body

Within one school day the head teacher must inform the governing body of:

- exclusions which will result in the pupil being suspended for more than five school days (or more than ten lunchtimes) in a term;
- suspensions which will result in the pupil missing a public examination or national curriculum test;
- permanent exclusions

Suspensions totalling five or fewer school days in any one term must be reported to the governing body once a term.

Duty to consider an exclusion (see Appendix A)

- **In the case of a suspension of 5 school days or fewer in one term (and which does not bring the pupil's total number of days of exclusion to more than 5 in one term),** consider any representations made by the parent. If representations from the parent are received the governing body must consider them, but they cannot direct reinstatement. In such cases the governing body has **discretion** to agree to a meeting if the parent requests one to discuss the exclusion. No statutory time limits apply to consider such exclusions, but the governing body should consider responding promptly to any request from the parent;
- **In the case of one or more suspensions totalling more than 5 and not more than 15 school days in any one term,** the governing body must convene a meeting within 50 school day after receiving notice of exclusion, to consider reinstatement, **but only if the parent requests such a meeting;**
- **In the case of a permanent exclusion or suspensions totalling more than 15 school days in any one term,** the governing body **must** convene a meeting within 15 school day after the date of receipt of notice to consider reinstatement. If a pupil's total number of days of suspension exceeds 15 school days in one term, any subsequent suspension of the pupil in the same term would again trigger the governing body's duty to consider the circumstances of the exclusion.

Guidance on the use of exclusion in school

Early intervention

Where a school has concerns about a pupil's behaviour, it should attempt to identify whether there are any causal factors and intervene early in order to reduce the likelihood of an external exclusion.

Early intervention to address underlying causes of unacceptable behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disabilities that a pupil may have. Head teachers should also consider multi-agency involvement for pupils whose behaviour is giving significant cause for concern to the point where an exclusion may be a future possibility.

There are various sources of advice and support from AfC that head teachers should access as part of a graduated response to emerging behaviours.

Types of exclusion

1. A pupil can be suspended for one or more fixed periods up to a maximum of 45 school days in a single academic year; or
2. Permanent.

Length of fixed period suspension

- A pupil can be suspended on one or more occasions which, when aggregated, do not exceed a total of 45 school days in any one school year.
- Individual suspensions should be for the shortest time necessary, bearing in mind that suspensions of more than a day or two make it more difficult for the pupil to reintegrate back into the school.

Please note: The law does not allow for extending a suspension or 'converting' a suspension into a permanent exclusion.

In exceptional cases only, usually where further evidence has come to light, a further suspension may be issued to begin immediately after the first period ends or a permanent exclusion may be issued to begin immediately after the end of the suspension.

Permanent Exclusion

A decision to exclude a pupil permanently is an extremely serious one and should only be taken **as a last resort** and:

- in response to a serious breach, or persistent breaches, of the school's behaviour policy; and
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

It will usually be the final step in a process for dealing with disciplinary offences following a wide range of other strategies which have been tried without success. It is an acknowledgement by the school that it has exhausted all available internal and external sources of support for the child.

Please note: A Head teacher may withdraw/rescind a suspension or permanent exclusion that has not been reviewed by the governing board. If this occurs, parents, the governing board and the local authority should be notified.

The decision to exclude

Only the head teacher can exclude a pupil from school. If the head teacher is absent from school, the authority rests with the most senior teacher who is acting in that role.

Any decision of a school, including exclusion, must be made in line with the principles of administrative law, i.e. that it is lawful (with respect to the legislation relating directly to exclusions and a school's wider legal duties, including the European Convention on Human Rights and the Equality Act 2010); rational; reasonable; fair and proportionate.

Head teachers should take the pupil's views into account, considering these in light of their age and understanding, before deciding to exclude, unless it would not be appropriate to do so.

Whilst an exclusion may still be an appropriate sanction, the head teacher should also take account of any contributing factors identified after an incident of misbehaviour has occurred and consider paragraph 45 of the Behaviour in Schools guidance

The reasons below are examples of the types of circumstances that may warrant a suspension or permanent exclusion.

- Physical assault against a pupil
- Physical assault against an adult
- Verbal abuse or threatening behaviour against a pupil
- Verbal abuse or threatening behaviour against an adult
- Use, or threat of use, of an offensive weapon or prohibited item that has been prohibited by a school's behaviour policy
- Bullying
- Racist abuse
- Abuse against sexual orientation or gender reassignment
- Abuse relating to disability.

Continuing education

Where a pupil is given a suspension of more than five school days, the governing body has a duty to arrange suitable full-time educational provision. This provision must begin no later than the sixth school day of the exclusion.

During this period the school should set work for the pupil to complete and for it to be marked, unless the school has made arrangements (on a voluntary basis) for suitable full-time provision to commence earlier than the sixth day.

6th day provision should normally be off-site, however a school may make provision on-site where arrangements for shared on-site provision have been made with the governing body of at least one other school and it is available to excluded pupils from that or those other schools.

For permanent exclusions, the LA in whose area the young person resides must arrange suitable full-time education for the pupil to begin no later than the sixth day of the exclusion.

Behaviour outside school

The behaviour of pupils outside school can be considered as grounds for exclusion. This will be a matter of judgment for the head teacher in accordance with the school's published behaviour policy.

The school's behaviour policy should set out how the school will respond to all non-criminal bad behaviour, including the punishments that will be imposed on pupils, which occurs away from the school premises and is witnessed by a staff member or reported to the school.

Subject to the school's behaviour policy, the teacher may discipline a pupil for:

- Any misbehaviour when the child is:
 - Taking part in any school-organised or school-related activity; or
 - Travelling to or from school; or
 - Wearing the school uniform; or
 - In some other way identifiable as a pupil at the school.
- Or misbehaviour at any time, whether or not the conditions above apply, that:
 - Could have repercussions for the orderly running of the school; or
 - Possess a threat to another pupil or member of the public; or
 - Could adversely affect the reputation of the school.

Any such decision to exclude in the above circumstances must be lawful, rational, reasonable, fair and proportionate.

Equality Act 2010

Under the Equality Act 2010 schools must not discriminate against, harass or victimise pupils because of:

- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Gender
- Sexual orientation

For disabled pupils, this includes a duty to make reasonable adjustments to policies and practices. In carrying out their functions under the Equality Act, schools must have due regard to the need to:

- Eliminate discrimination and other conduct that is prohibited by the Equality Act 2010;
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- Foster good relations across all characteristics.

How do I avoid discriminating in relation to exclusions from school?

Reviewing the school's behaviour and exclusions policies regularly will help ensure the head teacher and governing body do not discriminate against pupils with a particular protected characteristic, by including factors that would make it more likely that pupils with that particular protected characteristic would be disciplined or excluded than those without.

Indirect discrimination may occur if behaviour or exclusions policies result in a greater proportion of pupils with protected characteristics being disciplined or excluded.

If the school's exclusions and behaviour policies are non-discriminatory, and take into account the duty to make reasonable adjustments to policies and procedures for disabled pupils, then it is less likely the school will exclude a pupil for discriminatory reasons. Those making decisions regarding discipline and exclusions should be aware of the school's obligations under the Equality Act 2010 and take care not to make assumptions that may lead to unlawful discrimination. The equality duties will assist the head teacher and governing body in ensuring that the policies and procedures do not discriminate against pupils.

Pupils with disproportionately high rates of exclusion

The exclusion rates for certain groups of pupils are consistently higher than average. These include: pupils with SEN, pupils eligible for free school meals, looked after children and pupils from certain ethnic groups.

In addition to early intervention, head teachers should consider what extra support might be needed to identify and address the needs of pupils from these groups in order to reduce the risk of exclusion.

Pupils with special educational needs (SEN) and looked after children

Head teachers and governing bodies must take account of their statutory duties in relation to SEN when administering the exclusion process. This includes having regard to the SEN Code of Practice.

Other than in the most exceptional circumstances, schools should avoid permanently excluding pupils with an Education & Health Care Plan or a looked after child.

Schools should engage proactively with parents in supporting the behaviour of pupils with additional needs. In relation to looked after children, schools should co-operate proactively with foster carers or children's homes workers and the local authority that looks after the child.

Where a school has concerns about the behaviour, or risk of exclusion, of a child with additional needs, it should, in partnership with others consider what additional support or alternative placement may be required.

Guidance on using data on suspensions and permanent exclusions

Governing boards should be challenging and evaluating what their school's data is telling them about their school or academy trust. Boards should carefully consider the level of pupil moves and the characteristics of pupils who are moving on any permanent exclusions to ensure the sanction is only used when necessary as a last resort.

Governing boards should review suspensions and permanent exclusions, those taken off roll and those on roll but attending education off-site. It is important to consider both the cost implications of directing children to be educated off-site in AP and whether there are any patterns to the reasons or timing of moves. For example, if high numbers of children with SEND are moving, the school, academy or trust may wish to consider reviewing its SEN support.

Governing boards should consider:

- effectiveness and consistency in implementing the school's behaviour policy
- the school register and absence codes
- instances where pupils receive repeat suspensions
- interventions in place to support pupils at risk of suspension or permanent exclusion
- any variations in the rolling average of permanent exclusions to understand why this is happening, and to ensure they are only used when necessary
- timing of moves and permanent exclusions, and whether there are any patterns, including any indications which may highlight where policies or support are not working
- understanding the characteristics of excluded pupils, and why this is taking place
- whether the placements of pupils directed off-site into AP are reviewed at sufficient intervals to assure that the education is achieving its objectives and that pupils are benefiting from it

The Discipline Committee Hearing

A guide to the law

Those entitled to attend a governing board hearing and make representations are:

- parents and young person;
- the head teacher, or representative;
- the pupil's social worker if the pupil has one;
- a rep from the Virtual School if the young person is looked after;
- and the local authority (in the case of a maintained school).

Please note – an additional staff member can attend the hearing at the discretion of the Chair where there is an established need for them to do so. Given that the head teacher has made the decision to exclude it is for he/she to answer any questions from the Panel, and Parent, as to the rationale for exclusion.

Preparing for an exclusion hearing

Members of the governing body panel should:

- not discuss the exclusion with any party outside of the meeting;
- have regard to their duty to make reasonable adjustments for people who use the school and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting (for example where a parent or pupil has a disability in relation to mobility or communication that impacts upon their ability to attend the meeting or to make representations); and
- identify the steps they will take to **enable and encourage** the excluded pupil to attend the meeting and speak on his/her own behalf (such as providing accessible information or allowing them to bring a friend), taking into account the pupil's age and understanding, or how the excluded pupil may feed in his/her views by other means if attending the exclusion meeting is not possible.

The role of the Clerk

The clerk to the governing body must:

- Invite parties to the meeting at a time and place convenient to all (within the statutory time limit);
- ask the head teacher for any written evidence that he/she wishes to be considered at the hearing;
- where possible, circulate any written evidence and information, including a list of those who will be present, to all parties at least **five school days** in advance of the meeting;

The notes taken by the clerk in the hearing will assist the discipline committee in its deliberations and wording of the decision letter. They may be used as evidence should there be an independent review of the panel's decision.

The role of the Chair

The chair's role is very important. It sets the tone, which should be informal but clearly structured. The chair is responsible for ensuring that the hearing conforms to the law and good practice.

The role of the Local Authority

A representative of the LA may:

- Draw the attention of governors to key issues which need to be taken into account, highlight where there is a lack of clarity, or where guidance may not have been followed.

Witnesses

The general principle is that a pupil accused of something is entitled to know the substance and the source of the accusation. Therefore:-

- All reports, records and witness statements must be attributed, dated and signed (unless the school sets out the reason to protect the anonymity of pupils).
- In the case of anonymous statements, the governors will need to consider whether the excluded pupil or their parent could reasonably answer any allegations made in the statements.

Suggested Hearing Procedure

The order of the hearing must be notified to all parties in advance and can only be changed if all parties agree:

- Welcome and introduction by the chair who outlines the purpose of the meeting and the procedures to be followed. The chair should also explain how the decision will be reached;
- Chair invites the head teacher to put the school's case, explaining the reasons for the decision to exclude the pupil;
- Parents/carers have an opportunity to question the head teacher;
- Governors have an opportunity to question the head teacher;
- Parents/carers invited to put the case on behalf of the pupil;
- Governors have an opportunity to question the parents/carers;
- If present, the social worker/virtual school have the opportunity to make representations
- Opportunity for final comments from the head teacher;
- Opportunity for final comments from the parents/carers;
- Representation from the Local Authority considered (where applicable);
- All invited parties leave the meeting together;
- Governors discuss and reach a decision.

Adjournment

In exceptional cases only the discipline committee may adjourn a hearing to a later date. Such circumstances could be that a participant is taken ill during proceedings.

A hearing must not be adjourned in order that a school can provide missing, or additional, evidence.

If an adjournment occurs, the hearing should reconvene as soon as possible thereafter and all the original attendees must be present.

In reaching a decision, the following must be established

1. Findings of Fact

The first function of the committee is to determine the facts of the case that led to the head teacher's decision to impose an exclusion.

The standard of proof to be applied is the balance of probabilities i.e. if it is more probable than not that the pupil did what he or she is alleged to have done, the head teacher may exclude the pupil.

However, the more serious the allegation and possible sanction, the more compelling the evidence substantiating the allegation needs to be. This is not the same as requiring the criminal standard of 'beyond reasonable doubt' to be applied, however it does mean that when investigating more serious allegations, head teachers will need to gather and take account of a wider range of evidence. In some cases this may extend to evidence of the pupil's past behaviour, if relevant to the seriousness of the present allegation.

2. Response of the School

Having determined the facts of the case, the committee is then obliged to consider whether the head teacher has complied with the law and had regard to the Secretary of State's Guidance on the use of exclusion from school, including the steps taken to avoid recourse to an exclusion

3. Serious Harm to the Pupil or Others

- The Committee must consider whether allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school. What evidence is there to support an assertion that it would?

4. Special Educational Needs (SEN)

A disproportionate number of excluded pupils are found to have special educational needs. The panel needs to be satisfied on the following points:

- Has the school assessed the pupil for SEN?
- If the pupil has additional needs, has the school followed the school-based stages of the SEN Code of Practice appropriately and provided the pupil with the help needed (this can include fast tracking to statutory assessment)?
- If the pupil has an Education & Health Care Plan (EHCP), has the school reviewed the statement with the LA before exclusion?

5. Last resort

- A decision to permanently exclude a child is a serious. It will usually be the final step in a process for dealing with disciplinary offences following a range of other strategies which have been tried without success. It is an acknowledgement by the school that it has exhausted all available internal and external support and interventions for dealing with the pupil.

Such interventions could include:

- Positive strategies have been employed to improve behaviour (including a behaviour support plan) and their effectiveness assessed
- The parents have been invited to school in order to discuss problems and been made aware of the possible consequences of poor behaviour, including suspension, and that this is consistent with the school's discipline policy
- The school's SENCO/Learning Support has investigated whether or not the behavioural problems could be linked to a learning difficulty and appropriate strategies have been employed as recommended by the SEN Code of Practice
- Referrals have been made to AfC agencies to obtain additional advice and support, such as:
 - Early Help Resilience Network
 - Early Advice & Intervention Panel (EISS)
 - Malden Oaks Outreach Team (MOOT)
 - Single Point of Access (for Early Help support)
 - Cause for Concern Panel (secondary only)
 - Malden Oaks (secondary Alternative Provision)

The panel needs to establish that a range of strategies have been tried, and in the case of a permanent exclusion will need to satisfy themselves why a lesser sanction, such as a suspension, could not satisfactorily address the behaviour displayed.

6. Fair, reasonable and proportionate

- The committee has to consider whether the sanction imposed was fair, reasonable and proportionate, based on the evidence provided at the hearing.

The decision at the governors' discipline committee hearing

The discipline committee makes its decision when all parties have left the room.

The clerk remains with the panel to take notes, remind the panel if necessary of the evidence and to advise on the guidance.

The chair should sum up the evidence impartially and then ask the panel members for their views. Unanimous decisions are preferable, however a simple majority is sufficient.

The decision should not be based upon assumptions regarding the case. The decision should be supported by the evidence presented and tested by them.

When the committee takes the decision, the clerk must be clear about their reasons.

When considering an exclusion, the governing body can decide to either:

- uphold an exclusion; or
- direct reinstatement of the pupil immediately or by a particular date.

Please note: The governing body cannot increase the severity of an exclusion, for example by extending the period of a suspension or by imposing a permanent exclusion in substitution for a suspension.

In reaching their decision the governing body should consider:

- On the balance of probabilities, was the pupil responsible for the incident or behaviour that led to exclusion?
- Did the school follow the law and DfE guidance?
- In the circumstances, was the decision to exclude the pupil lawful, rational, reasonable, proportionate and procedurally fair, taking account of the head teacher's legal duties?

Please note: Where reinstatement is not practical (i.e. the young person has already returned to school), the governors' discipline committee must, in any event, consider whether the head teacher's decision to exclude was justified based on evidence. The letter of decision should be put on the child's educational record.

Communicating the decision

The clerk of the governors' discipline committee must notify parents, the head teacher and the local authority of the decision and reasons (in sufficient detail to enable all parties to understand why the decision was made) in writing and without delay. The letter should include:

- a summary of the proceedings, and
- refer to the evidence presented by **all** parties.

In the case of a decision to uphold a permanent exclusion, the governing body's notification must also include the information below.

- The fact that it is permanent.
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel and the following information:

Claims of discrimination to the First-Tier Tribunal or County Court can be made up to six months after the discrimination is alleged to have occurred.

Where practicable, schools should retain records and evidence relating to an exclusion for at least six months in case such a claim is made.

Letters

Model letters have been provided in this booklet for governing bodies to use which include all the relevant information that needs to be provided to the parent of an excluded child.

Independent Review Panel

If applied for by the parents within the legal time frame, the local authority (in the case of a maintained school) or the Academy Trust must, at their own expense, arrange for an independent review panel hearing to review the decision of a governing body not to reinstate a permanently excluded pupil.

The legal time frame for an application is within 15 school days of formal notice being given to the parents by the governing body of their decision to uphold a permanent exclusion.

SEN Expert

If requested by parents in their application for an independent review panel, the local authority/academy trust must appoint a Special Educational Needs expert to attend the panel. The role of the SEN expert is to provide impartial advice to the panel on how special educational needs might be relevant to the exclusion.

The SEN expert should be a professional with first-hand experience of the assessment and support of SEN, as well as an understanding of the legal requirements on schools in relation to SEN and disability. Examples of suitable individuals might include educational psychologists, specialist SEN teachers, special educational needs coordinators (SENCOs), or behaviour support teachers.

Individuals may not serve as a SEN expert if they have, or at any time have had, any connection with the local authority, Academy Trust, school, parents or pupil, or the incident leading to exclusion, which might reasonably be taken to raise doubts about their ability to act impartially. However, an individual is not taken to have such a connection solely because he/she is an employee of the local authority/Academy Trust.

Decision

Following its review the panel can decide to:

- 1) Uphold the exclusion decision;
- 2) Recommend that the governing body reconsiders their decision, or
- 3) Quash the decision and direct the governing body considers the exclusion again.

Where the panel directs or recommends that the governing body reconsiders their decision, the governing body must reconvene within 10 school days of being given notice of the panel's decision.

If, following a direction to reconsider, the governing body does not offer to reinstate that pupil within 10 school days of being notified of the panel's decision, an adjustment may be made to the school's budget in the sum of £4,000 within 28 days of notification of a direction from the panel. In the case of an Academy, the school would be required to make an equivalent payment directly to the local authority in which the school is located. This payment will be in addition to any funding that would normally follow the pupil.

MODEL LETTER

From the clerk to the governing body inviting a parent to an exclusion hearing

Dear (parent's name)

I am writing to inform you that following (name of pupil)'s suspension/permanent exclusion, the Governors Discipline Committee will meet to consider whether to direct reinstatement. The meeting will take place at (establishment) on (day, date, time).

You are invited to attend this meeting in order to () the exclusion.

"make representations about" (in the case of suspension).

"appeal against" (in the case of a permanent exclusion).

You may, if you wish, be accompanied by a friend or representative at this meeting.

The Governors would also like to extend an invitation to (name of pupil) to attend the meeting in order to help them in their deliberations and very much hope that he/she will be able to attend.

I have enclosed the order of procedure that will be followed at the meeting and will forward to you in due course details of who will be in attendance at the hearing together with the documents which the head teacher has submitted for the governors' consideration.

Should you wish any written representations to be considered these should be forwarded to me by (date) so that they can be circulated to all parties prior to the meeting.

Please would you let me know as soon as possible whether or not you will be able to attend.

Yours sincerely

Clerk to the Discipline Committee

EXAMPLE LETTER

Outcome letter from a governors' discipline committee hearing to consider a permanent exclusion

Dear **[Parent's name]**,

I am writing to advise you of the outcome of the discipline committee hearing which met on **[date]** to consider whether to reinstate **[name of pupil]** at **[name of school]** following the decision of the head teacher to permanently exclude him/her.

After careful consideration of the verbal representations made at the hearing and the evidence submitted, the governing body has decided to uphold the exclusion/direct reinstatement*.

The reasons for the governing body's decision are as follows:

There is a risk of injustice to the appellant unless proper reasons for the decision are given, which show why the governors' discipline committee have taken the view that they did.

It is therefore important to outline the evidence that was presented together with any representation from the parent and/or Local Authority. Give the reasons in as much detail as possible and the letter should clearly set out how the final decision was arrived at.

A. [If the exclusion is upheld – maintained schools]

You have the right to apply for a review of this decision by the Independent Review Panel. If you wish for the decision to be reviewed, please notify this Local Authority by completing the attached notice. You must set out the reasons for your appeal in writing and send this notice of application to **[address]** by no later than **[specify the latest date – the 15th school day after receipt of this letter]**. If you have not lodged an application for review by **[repeat latest date]**, you will lose your right to apply for a review of the decision.

B. [If the exclusion is upheld – academy schools]

You have the right to apply for a review of this decision by the Independent Review Panel. If you wish for the decision to be reviewed, please me by completing the attached notice. You must set out the reasons for your appeal in writing and send this notice of application to **[address]** by no later than **[specify the latest date – the 15th school day after receipt of this letter]**. If you have not lodged an application for review by **[repeat latest date]**, you will lose your right to apply for a review of the decision.

Please advise if you have a disability or special needs which would affect your ability to attend the hearing. Also, please inform **[name of the clerk to the appeal panel]** if it would be helpful for you to have an interpreter present at the hearing.

The role of an Independent Review Panel is to review the governing body's decision not to reinstate **[name of pupil]**. In reviewing the decision, the panel must consider the interests and circumstances of the excluded pupil, including all the circumstances in which the pupil was excluded and have regard to the interests of other pupils and people working at the school. The panel must meet no later than the 15th school day after the date on which your application for a review is lodged. In exceptional circumstances, panels may adjourn the hearing until a later date.

In determining your appeal the panel can make one of three decisions:

- uphold the decision to permanently exclude your child;
- recommend that the governing body reconsiders their decision; or
- Quash the decision and direct that the governing body reconsiders its decision.

You have the right to request the presence of a Special Educational Needs (SEN) expert at the review, regardless of whether the school recognises that your child has SEN. The SEN expert's role is to provide impartial advice to the panel about how SEN could be relevant to the exclusion and does not include making an assessment of your child's SEN. There is no cost to yourself for this service but you must make clear that you wish for an SEN Expert to be appointed in any application for a review by indicating this on the enclosed notification form.

You may, at your own expense, appoint someone to make written and/or oral representation to the panel or bring a friend to the review.

The following are relevant sources of information and advice about exclusion from school:

- The statutory guidance on the use of exclusion from school can be viewed at [DfE exclusion guidance 2022](#)
- Coram's Child Law Advice service can be accessed through their website <https://childlawadvice.org.uk/information-pages/school-exclusion/> or contacted on 0300 330 5485 from Monday to Friday, 8am – 6pm.
- ACE education run a limited service and can be reached on 0300 0115 142 on Monday to Wednesday from 10am to 1pm during term time. Information can be found on the website: <http://www.ace-ed.org.uk/>.

- Independent Provider of Special Education Advice – www.ipsea.org.uk It offers free and independent information, advice and support to help get the right education for children and young people with all kinds of special educational needs (SEN) and disabilities.
- SEND Information, Advice and Support <https://www.kids.org.uk/richmond-and-kingston-sendiass>
- You may wish to contact Adrian Bannister, Exclusions & Reintegration Officer for Achieving for Children who can provide advice. He can be contacted by telephoning 020 8547 5253 or by emailing adrian.bannister@achievingforchildren.org.uk.
- If you consider that the exclusion relates to a disability your child has and you think discrimination has occurred, you have the right to appeal and/or make a claim to the First-tier Tribunal (for disability discrimination) under the Equality Act 2010 or the County Court (for other forms of discrimination). A claim of discrimination made under these routes should be made within six months of the date on which the discrimination is alleged to have taken place. The following is the link to guidance on making a claim of discrimination to the First-Tier Tribunal:

<http://www.justice.gov.uk/tribunals/send/appeals>

C. [If the decision is to direct reinstatement]

In light of this decision the discipline committee has instructed the school to reinstate **[pupil's name]** on **[immediately/specified date]**. Please contact the Head Teacher's secretary in order to discuss the specific readmission arrangements.

Yours sincerely

Clerk to the Governors' Discipline Committee

Outcome letter from a governors' discipline committee hearing

Dear Mr & Mrs Hudson,

I am writing further to the meeting of the Governors' Discipline Committee which met at the school on 7th March to consider the decision of Mr Braithwaite, the head teacher, to permanently exclude your son, Paul. Present at the meeting was Mr Braithwaite, and Mrs Smith from New Town Council.

Prior to the hearing copies of the documents submitted by the school had been circulated to all other participants.

The outcome of the meeting was that the Committee upheld the decision of the head teacher, Mr Braithwaite, that Paul should be permanently excluded. I have set out below details of the meeting and the information which the Committee considered in reaching their decision.

Mr Braithwaite referred to a series of incidents on 10th February leading up to an altercation during the lunch hour between Paul and another boy. This was described as a violent assault with a piece of metal resulting in the other boy having to receive hospital treatment for a head wound. The severity of the assault was such that Mr Braithwaite believed that permanent exclusion was warranted on the basis of a 'one off' incident as per the Government's guidance on the use of exclusion from school. Full details of the incidents and witness statements were included in the papers which had been circulated prior to the meeting.

Mr Braithwaite explained that as a result of injuries sustained by the other boy that he received treatment at hospital. In order to safeguard the health and safety of other pupils at the school the Head was unwilling to tolerate such behaviour and therefore took the decision to permanently exclude Paul.

Mr Braithwaite advised the Committee that since starting at the school in September 2010 there had been a number of incidents of poor behaviour. As a result of this behaviour Paul had been referred to the school's inclusion manager in January who identified difficulties with literacy as the main impediment to his educational progress. And as a result Paul was placed on the SEN register at 'School Action'. Mr Braithwaite did acknowledge that this review had helped give the School a better awareness of Paul's SEN.

Neither the Committee nor the parents had any questions for Mr Braithwaite on his submission.

Mr Hudson explained that he had been bullied at school and as a result always encouraged his son to stand up for himself. He therefore felt partly responsible for what had happened. Paul had told him that the other boy had been abusive to him earlier in the day and challenged him to a fight. He felt, wrongly, that having a fight was the way to settle the matter. During the fight Paul told him that he had been wrestled to the ground and that the other boy was on top of him. There was a piece of metal tubing on the floor and felt that the only way to get the boy off him so that he could breath easily was to hit him.

Whilst acknowledging the seriousness of the incident Mr Hudson felt there were mitigating circumstances and ask that the Committee consider reinstating his son who had struggled at school due to low literacy levels.

Mrs Smith then advised the Committee on the points that they needed to take into account. They had to consider whether breaches of the school's behaviour policy were sufficiently serious to justify exclusion and whether allowing the pupil to remain in school would seriously harm the education or welfare of other pupils. Also, had a range of support strategies been tried and failed leaving this option as the last resort? In this instance the School felt that the nature of the assault meant that permanent exclusion was justified as a 'one off' offence. Serious actual or threatened violence towards another pupil is given in the Government's guidance as the type of one-off incident that could warrant a permanent exclusion. In such cases where the basic facts of the case have been clearly established then the guidelines state that normally the Governing Body would not be expected to reinstate the pupil.

Mr Braithwaite, Mrs Smith & the family then withdrew from the meeting to allow the Committee to deliberate on their decision in private.

The Committee carefully considered the information contained in the submitted paperwork and also the oral information presented during the meeting. It was not disputed that a serious assault had taken place which resulted in injury requiring hospital treatment. Whilst the school had acknowledged that there were some shortcoming earlier in the year in the support for Paul's special educational needs the Committee's view was that this was not sufficient mitigation for the assault. The Committee felt that the action taken by the Head had met the criteria set out in the Government's guidelines and therefore upheld his decision to permanently exclude Paul from the school.

You have the right to apply for a review of this decision by the Independent Review Panel. If you wish for the decision to be reviewed, please notify this Local Authority by completing the attached notice. You must set out the reasons for your appeal in writing and, if appropriate, may also include reference to how [name of pupil]'s special education needs are considered to be relevant to the exclusion and send this notice of application to **[address]** by no later than **[specify the latest date — the 15th school day after receipt of this letter]**. If you have not lodged an application for review by **[repeat latest date]**, you will lose your right to apply for a review of the decision.

Please advise if you have a disability or special needs which would affect your ability to attend the hearing. Also, please inform **[name of the clerk to the appeal panel]** if it would be helpful for you to have an interpreter present at the hearing.

Your review will be heard by an Independent Review Panel whose role is to review the governing body's decision not to reinstate [name of pupil]. In reviewing the decision, the panel must consider the interests and circumstances of the excluded pupil, including all the circumstances in which the pupil was excluded and have regard to the interests of other pupils and people working at the school. The panel must meet no later than the 15th school day after the date on which your application for a review is lodged. In exceptional circumstances, panels may adjourn the hearing until a later date.

In determining your appeal the panel can make one of three decisions:

- uphold the decision to permanently exclude your child;
- recommend that the governing body reconsiders their decision; or
- Quash the decision and direct that the governing body reconsiders its decision.

You have the right to request the presence of a Special Educational Needs (SEN) expert at the review, regardless of whether the school recognises that your child has SEN. The SEN expert's role is to provide impartial advice to the panel about how SEN could be relevant to the exclusion and does not include making an assessment of your child's SEN. There is no cost to yourself for this service but you must make clear that you wish for an SEN Expert to be appointed in any application for a review by indicating this on the enclosed notification form.

The following are relevant sources of information and advice about exclusion from school:

- The statutory guidance on the use of exclusion from school can be viewed at [DfE exclusion guidance 2022](#)
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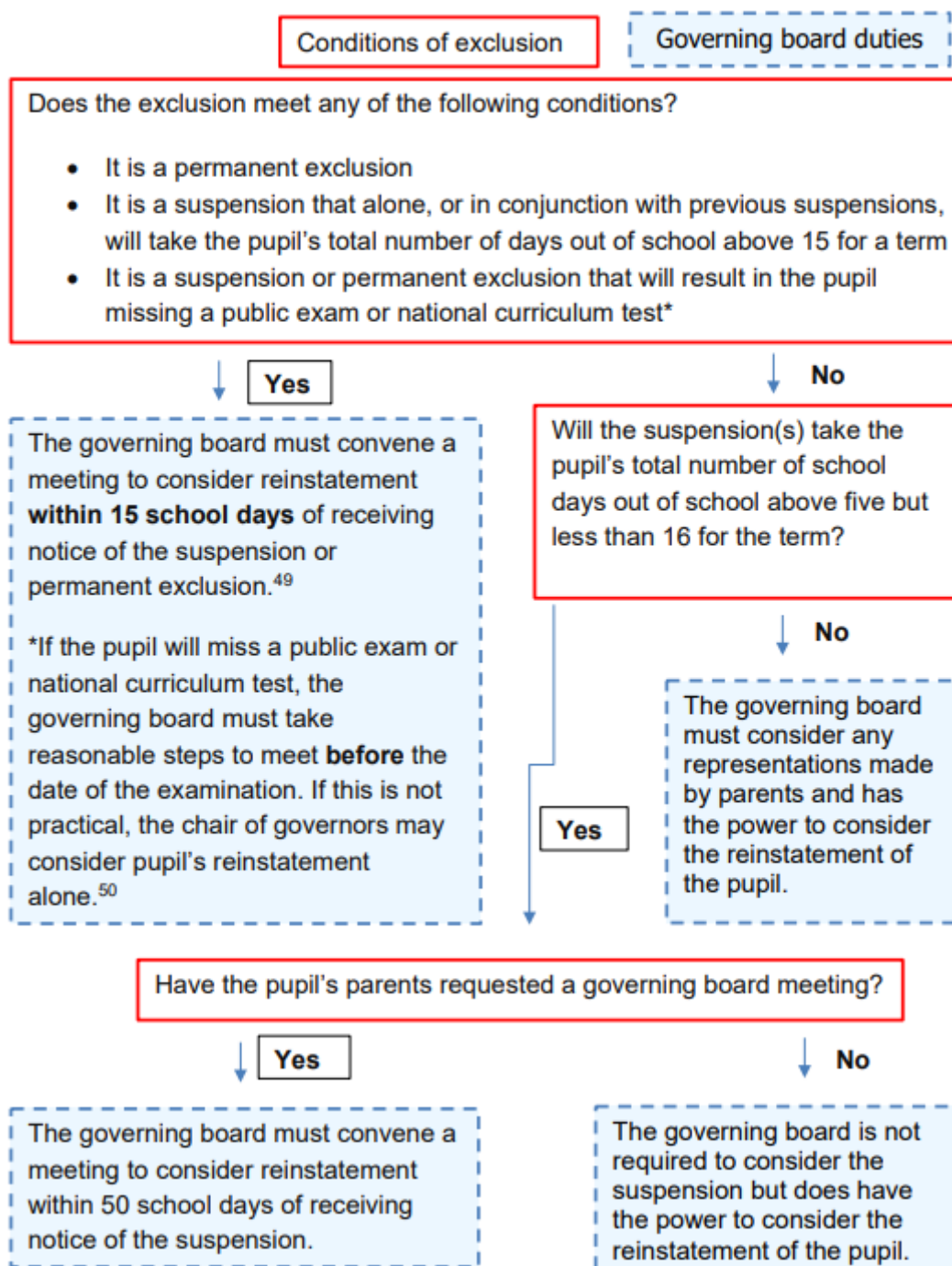
Yours sincerely

Mrs Talbot
Clerk to the Governors' Discipline Committee

Cc: Head Teacher
Local Authority

Appendix A

A summary of the governing board's duties to review the headteacher's exclusion decision



APPENDIX B

NOTIFICATION OF A PARENTAL REQUEST FOR AN INDEPENDENT REVIEW PANEL HEARING

Name of School:	
Surname of Pupil:	Forename of Pupil:
Date of Birth:	Year Group:
Home Address:	
Post Code:	
Contact email address:	Contact telephone number:

Notes

1. Please complete the statement overleaf as clearly and briefly as possible.
2. This statement may be continued on separate sheets, which should be numbered and securely attached.
3. The last page of the statement should be signed and dated.
4. The completed form should be returned to (in the case of a maintained school):

Independent Appeals Service
London Borough of Richmond upon Thames
C/o Democratic Services
York House
Twickenham TW1 3AA

(Please note - In the case of an academy school, contact details of the Clerk to the Governing Body should be given above)

Name of School:	
Surname of Pupil:	Forename of Pupil:

PARENT(S)/CARER(S) STATEMENT

I wish to apply for a review of the Governing Body's decision not to direct the reinstatement of the above pupil at.....School.

My reason for the appeal is as follows:

Do you wish to have an SEN Expert present at the Panel meeting? YES/NO (Delete as appropriate)

Signed..... Date.....

Relationship to pupil.....

Appendix C - Decision-making checklist (when considering a permanent exclusion)

Key areas	Threshold met? (Yes or No)	Notes/Evidence
1. Findings of Fact The standard of proof to be applied is the balance of probabilities i.e. if it is more probable than not that the pupil did what he or she is alleged to have done. <u>However</u> , the more serious sanction, the more compelling the evidence substantiating the allegation needs to be.		
2. Response of the School Has the head teacher has complied with the law and had regard to the Secretary of State's Guidance on the use of exclusion from school		
3. Special Educational Needs (SEN) <ul style="list-style-type: none">Has the school assessed the pupil for SEN?If the pupil has additional needs, has the school followed the school-based stages of the SEN Code of Practice appropriately and provided the pupil with the help needed?		

Key areas	Threshold met? (Yes or No)	Notes/Evidence
4. Serious Harm to the Pupil or Others The Committee must consider whether allowing the pupil to remain in school <u>would</u> seriously harm the education or welfare of the pupil or others in the school.		
5. Fair, reasonable and proportionate Based on the evidence provided does the sanction meet these criteria?		
6. Last resort Has the school implemented a range of interventions which have been tried without success? Has the school that it has exhausted all available strategies for dealing with the pupil.		

